

Subject: **ACTION:** Guidance on Use of Previously Approved Compliance Data from Foreign Sources

Date: September 13, 2001

From: Acting Manager, Aircraft Engineering Division, AIR-100

Reply
Attn.
of: V. Powell
202-267-9588

To: Acting Manager, Transport Airplane Directorate, ANM-100S

This memorandum is in response to the Jamco America, Inc. letter received by the Transport Airplane Directorate, dated June 20, 2001. The Transport Airplane Directorate has asked the Aircraft Engineering Division to clarify the policy in regards to using previously approved compliance data. The FAA has received numerous requests from many areas regarding the acceptability of technical data from foreign sources that have been approved by another civil aviation authority (CAA). These data are intended to show compliance for a current certification program, but were not generated within the FAA system, i.e. the FAA was not party to the generation or collection of the data nor was it necessarily generated with the intention to use it to demonstrate compliance with any of the 14 Code of Federal Regulation (CFR) requirements. Industry is concerned that if such data cannot be accepted, duplicative testing may be required to substantiate compliance for the FAA.

To begin, the source of compliance data or the method of acquisition of the data, whether generated by a foreign company or not, is not constrained by regulation or policy. Therefore, the criteria for acceptance of data is the same as for US generated data. The use and acceptance of any data to demonstrate compliance must be based on the FAA's ability to establish the **Applicability** and **Validity** of the data.

The FAA can define **Applicability** as determining that the data applied on a certain model aircraft is applicable to another Model aircraft. The applicant's showing of identically or similarity analysis, providing rationale for non-interference with any design features of the new model, etc can do this. The local Aircraft Certification Office (ACO) would review the applicant's evidence to determine the applicability of the data.

Validity can be constituted by establishing the process that was followed in the original acceptance of the data. The criteria to be followed typically are: 1) conformity of a test article and test setup, 2) meeting an applicant's test plan, 3) the qualifications of personnel involved in the setup, 4) the witnessing and approving of the actual tests, 5) ensuring that any testing was carried out in accordance with the FAA approved test procedures. Based on the preceding factors, the data may be used to determine whether the design meets the requirements of 14 CFR.



For foreign data, a second factor for **Validity** is that the FAA must have some legal basis for the acceptance of approved data/findings from another authority's certification system, i.e. a bilateral agreement. Bilateral agreements provide for technical cooperation between the FAA and its counterpart civil aviation authority and facilitate reciprocal airworthiness certification of

products imported/exported between two countries. Only prior approved data from a bilateral partner's system should be included in an application for FAA certification.

Having determined that the data came from the system of a bilateral partner, a third factor in determining **Validity** is whether the CAA was involved in approving the data under its approval system as a bilateral partner. If there is no evidence of direct CAA involvement, does the organization that conducted the testing or generated the data have a delegation from the CAA? If the CAA was not involved the data was not produced under the bilateral.

The responsibility for the submittal of certification data rests with the applicant. The applicant themselves must first evaluate and assess the data for its **Validity** and **Applicability**. If found valid and applicable, the applicant must evaluate it for compliance with the applicable FARs and policies, and review or coordinate with the ACO prior to submittal of the data.

Additional Considerations

If the FAA finds that only part of the prior-approved data is applicable and valid, and some additional data is necessary, the ACO should give credit for whatever part of the data meets requirements and determine what specific additional information is needed. The ACO may then request the bilateral partner CAA's assistance in witnessing any additional testing that is required to be conducted outside the United States, in accordance with the applicable bilateral agreement. If prior approved data is used to substantiate a certificate approval, i.e. FAA STC, the applicant must provide copies of all required and applicable data, including test plans, etc., for the FAA's project file.

This policy applies to data approved prior to application. Applicants remain responsible for coordinating new data approvals through their ACO to obtain the support of the local CAA with test witnessing, etc.

The information in this memorandum will be sent to the federal register for public comment and if accepted, incorporated into national guidance at a future revision.

John W. McGraw

for David Hempe